IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

CRL.A.No. 215 of 2003

(APPEAL FILED AGAINST THE JUDGMENT DT. 29/06/2002 OF THE JFCM-1, THAMARASSERY AND MADE IN CC NO. 173/00, AS PER LEAVE GRANTED ON 08/11/2002 INCRL. MC. NO. 9996/2002)

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APPELLANT: COMPLAINANT

SREENU, S/O.VELAYUDHAN,
MELERAMANKANDY HOUSE,
MUKKOM, KOZHIKODE DT.

BY ADV. SRI.JACOB ABRAHAM

RESPONDENTS: ACCUSED 1 & 2 & STATE

1. ARAVINDAN, S/O.GOVINDAN,
THAZHAKKOTTUMMAL VEEDU, THAZHEKKODE AMSOM AND DESOM, NEAR MUKKOM, KOZHIKODE DT.

2. THANKAMANI, W/O.ARAVINDAN,
THAZHAKKOTTUMMAL VEEDU,
THAZHEKKODE AMSOM AND DESOM,
NEAR MUKKOM, KOZHIKODE DT.

3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.A.NO. 215 OF 2003

DATED THIS THE 26th October 2007

JUDGMENT

The appellant is the complainant in C.C.No.173/2000 in the file of the Judicial Magistrate of First Class-I, Thamarassery, the proceedings initiated on the basis of a private complaint filed alleging offence under Sections 323, 324 read with Section 34 of the Indian Penal Code. The case of the complainant is that on 16-3-1998 at about 6.45 hours the accused,husband and wife, attacked the complainant while he was passing through a lane, with wooden sticks, beat him on his head and he fell down. The compliant was filed only on 26-2-19999, i.e. after about one year. The police complaint filed was referred by the police. While testifying, the complainant has stated that he was beaten with wooden stick on his head and that he fell down and that the 2nd accused also hit him with a stick. Wound certificate was not proved and the Doctor was not examined. It was also found that the complainant as well as the witnesses examined are accused in two cases wherein the accused herein is the de facto complainant. There is a civil suit instituted by the accused herein against the complainant and there was an injunction order in the above case. It was in the above circumstances that the court below

found that the version of the witnesses are not reliable and acquitted the accused.

On a perusal of the evidence adduced in the matter, I find no reason to interfere in the findings of the court below. The appeal is dismissed.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.A. NO. 215 OF 2003

JUDGMENT

26-10-2007